



S T A T E B A R O F M I C H I G A N

p 517-346-6300

p 800-968-1442

f 517-482-6248

www.michbar.org

August 1, 2005

Corbin Davis
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

306 Townsend Street
Michael Franck Building
Lansing, MI
48933-2083

**RE: ADM File No. 2004-60
Proposed Amendment of Rule 9.205 of the Michigan Court Rules**

Dear Clerk Davis:

At its July 29, 2005 meeting, the Board of Commissioners of the State Bar of Michigan considered the above proposed amendment published for comment. After careful consideration, the Board adopted a position of opposition to the proposal because it considered the proposal to be overreaching and overbroad.

We have enclosed a public policy report submitted by the Civil Procedure and Courts Committee. The views expressed by the Committee are not necessarily the views of the State Bar.

We appreciate the opportunity to offer this position for the Court's consideration. Please contact me with any further questions.

Sincerely,

John T. Berry
Executive Director

cc: Lynn Richardson, Administrative Counsel, Michigan Supreme Court
Nancy J. Diehl, President
Janet Welch, General Counsel



Report on Public Policy Position

Name of Committee:

Civil Procedure and Courts Committee

Contact Person:

Ronald S. Longhofer

Email:

rlonghofer@srr.com

Proposed Court Rule or Administrative Order Number:

2004-60 - Proposed Amendment of Rule 9.205 of the Michigan Court Rules

This order invites comments on two alternative proposed amendments of MCR 9.205(B). Both would allow the Judicial Tenure Commission to recommend and this Court to order that a disciplined judge pay the costs, fees, and expenses incurred by the commission in prosecuting the complaint of judicial misconduct. Alternative B is narrower in that it only allows costs to be assessed where the judge is engaged in conduct involving fraud, deceit, intentional misrepresentation, or misleading statements to the commission, the commission's investigators, the master, or the Supreme Court. Cf. *In re Noecker*, 472 Mich 1 (2005).

Date position was adopted:

6-18-05

Process used to take the ideological position:

Discussion and vote

Number of members in the decision-making body:

13 present

Number who voted in favor and opposed to the position:

11-1, with 1 abstaining

Position:

The committee voted to oppose both alternatives A and B, for the reasons stated by Justice Weaver.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

<http://courts.michigan.gov/supremecourt/Resources/Administrative/2004-60.pdf>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

Arguments for the position:

Not provided.

Arguments against the position (if any):

Not provided.

If the State Bar currently has a position on this subject matter, state the position, and an analysis of whether the recommended position and the current State Bar position are in conflict.

On July 29, 2005, the State Bar of Michigan adopted a position to oppose the proposal.

Fiscal implications of the recommended policy to the State Bar of Michigan:

Not provided.